

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No 99 of 1991

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH
and
Hon'ble MR.JUSTICE D.A.MEHTA

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

SABARKANTHA DISTRICT CO-OP. MILK PRODUCER'S UNION LTD
Versus
COMMISSIONER OF INCOME-TAX

Appearance:

1. INCOME TAX REFERENCE No. 99 of 1991
NOTICE SERVED for Petitioner No. 1
MR AKIL KURESHI with MR MANISH R BHATT for Respondent No. 1

CORAM : MR.JUSTICE M.S.SHAH
and
MR.JUSTICE D.A.MEHTA

Date of decision: 16/10/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE D.A.MEHTA)

The Income Tax Appellate Tribunal, Ahmedabad Bench 'B' has referred the following three questions for the opinion of this Court at the instance of the assessee. The assessment years involved are 1981-82, 1982-83, 1983-84 and 1984-85.

- (i) "Whether, on the facts and circumstances of the case, the Tribunal was right in its interpretation and application of section 35C of the Income-tax Act, 1961 ?"
- (ii) "Whether, on the facts and in the circumstances of the case, the Appellate Tribunal was right in holding that the entire expenditure of Rs.18,80,407/- for A.Y. 1981-82, Rs.22,52,310/- for A.Y. 1982-83, Rs.22,55,433/- for A.Y. 1983-84 and Rs.32,05,403/- for A.Y. 1984-85 was not eligible for weighted deduction under section 35-C?"
- (iii) "Whether, on the facts and in the circumstances of the case, the Appellate Tribunal was right in law in holding that only 10% of the expenses incurred on dissemination of information or demonstration of modern techniques and the methods of agricultural, animal husbandry or dairy or poultry farming or advice on such technique or methods, is eligible for weighted deduction u/s.35C of the Act ?"

2. Though the reference is at the instance of the assessee, none appears on behalf of the assessee. However, Mr. Akil Kureshi learned counsel for the revenue very fairly pointed out that the issue raised by the three questions stands concluded in favour of the assessee by decision of this Court rendered on 2nd July, 2001 in Income Tax Reference No.32 of 1987 in the case of Kaira District Cooperative Milk Producers' Union Ltd. vs. CIT.

Following the aforesaid decision, all the three questions referred to us are answered in the negative i.e. in favour of the assessee and against the revenue.

3. The Reference is disposed of accordingly with no order as to costs.

(M.S. Shah, J)

(D.A. Mehta, J)

zgs/-